

KAREN P. HEWITT
United States Attorney
TIMOTHY D. COUGHLIN
Assistant United States Attorney
California State Bar No. 144911
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-7044/6340
E-mail: timothy.coughlin@usdoj.gov

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Crim. Case No. 07cr3304-JAH
Plaintiff,) DATE: April 1, 2008
v.) TIME: 10:30 a.m.
JOSHUA SPRINGER,) GOVERNMENT'S SENTENCING
Defendant.) MEMORANDUM

COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, Timothy D. Coughlin, Assistant United States Attorney, and hereby files its sentencing memorandum.

SENTENCING RECOMMENDATION

A. INTRODUCTION

On December 10, 2007, defendant Joshua Springer (Springer) pled guilty to a single count information charging him with conspiracy to distribute anabolic steroids, in violation of 21 U.S.C. §§ 846 & 841(a)(1). Defendant Springer's guilty plea was memorialized in a written plea agreement reached by the parties and entered into after consultation with his attorney, Mitchell H. Nelson. It is the intention of the Government

1 to make its sentencing recommendation in accord with the plea agreement reached by
2 the parties.

3 B. OFFENSE LEVEL CALCULATIONS

4 The Government agrees with U.S. Probation's determination that: **1)** Springer's
5 Criminal History Category is correctly determined to be a Category I, based on the fact
6 that has no prior criminal record. **2)** Springer's offense level is correctly determined to be
7 a level 20, pursuant to USSG § 2D1.1(c)(10). Because Springer conspired with co-
8 defendant Ray Ross and others to distribute more than 40,000 units of anabolic steroids,
9 which are a Schedule III Controlled Substance. **3)** Springer should be afforded a two
10 level downward adjustment for the safety valve provision, because he meets all the
11 criteria, pursuant USSG § 2D 1.1(b)(9) and USSG § 5C1.2. **4)** Springer should be
12 afforded a three level downward adjustment for acceptance of responsibility, pursuant
13 USSG § 3E 1.1(b).

14 1. The Government's Sentencing Calculations

15 U.S. Probation recommends that Springer be afforded a minor role adjustment
16 pursuant to USSG § 3B1.2(b). On its face, this is a reasonable assessment of Springer's
17 involvement with Ross and his degree of participation in Ross' criminal activity. However,
18 when Springer is measured against the other participants in the larger GA Labs
19 conspiracy, he is fairly described as "minimal participant." See United States v. Benitz,
20 34 F.3d 1489, 1498 (9th Cir. 1994). This is in contrast to the 9th Circuit's finding in United
21 States v. Johnson, 297 F.23d 845, 874-875 (9th Cir. 2002)(where least culpable participant
22 not afforded minimal role adjustment where the defendant's role was still considered
23 significant). A minimal participant according to USSG § 3B1.2 application note 4, is a
24 defendant who plays a minimal role in concerted activity and is an appropriate adjustment
25 for defendants who are plainly the least culpable of those involved in the conduct of the
26 group. In this case, the overall conspiracy involved at least 8 defendants with the leader
27
28

and organizers, including Ray Ross being charged in United States v. Goran Crnila et al. 07cr2516-JAH. Ray Ross recruited Springer to become involved in his anabolic steroid trafficking activity. The Crnila case involved defendants who were considerably more culpable than Springer. For example Crnila, Phillips and Ross, organized and ran an internet based web site named GA Labs which manufactured and distributed anabolic steroids. GA Labs was listed as an approved source on a international website named Steroidssuperboard. The conspiracy involved participants located in Thailand, New Jersey, Las Vegas and Florida and Ross in Aberdeen, Washington. This website was owned and operated by Goran Crnila, in addition, Josh Phillips was a moderator on the website and arranged for thousands of GA Lab customers to receive their anabolic steroids. Ross' role involved manufacturing the injectable and pill pressed steroids after receiving raw steroid powder from China. Ross also was involved in bottling the liquid injectable steroids and pills once they had been cooked. Springer was recruited by Ross to rent a mail box and was paid \$200 by Ross for his efforts. Ross also had Springer assist him with the pill press on a few occasions. In the larger context of this criminal activity, Springer's role is accurately described as minimal and the Government recommends the Court afford him a four level reduction pursuant USSG § 3B1.2(b). On March 17, 2008, Springer's co-conspirator Jeff Thompson appeared before this Court, in that case the Government recommended that Thompson be afforded the "minor" role adjustment. Thompson like Springer was recruited by Ross and but Thompson helped run the pill press for Ross and shared in the profits. Springer's involvement was considerably less than Thompson's and the Government urges the Court to follow the plea agreement reached by the parties regarding a role adjustment.

The result of these calculations is as follows:

Base Offense Level: 20

Minimal Role: -4

1 Safety Valve: -2
2 Acceptance of Responsibility: -3
3 Adjusted Base Offense Level 11

4 CHC I, Offense level 11 produces a guideline range of 8-14 months in custody.

5 C. CONCLUSION

6 In conclusion, the Government recommends the Court sentence defendant Springer
7 to the low end of the guidelines or 8 months in custody to be followed by three years of
8 supervised release, no fine and a \$100 penalty assessment.

9
10 DATED: March 24, 2008.

11 Respectfully submitted,

12 KAREN P. HEWITT
13 United States Attorney

14 s/ Timothy D. Coughlin

15 TIMOTHY D. COUGHLIN
16 Assistant U.S. Attorney
17 Attorneys for Plaintiff
18 United States of America
19 Email: Timothy.Coughlin@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 07cr3304-JAH

Plaintiff,)

JOSHUA SPRINGER, } DEPARTMENT OF DEFENSE

Defendant.

IT IS HEREBY CERTIFIED THAT:

I, Timothy D. Coughlin, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of Government's Sentencing Memorandum on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Mitchell H. Nelson

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 24, 2008.

s/ Timothy D. Coughlin